



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R4-ES-2022-0089; FXES11130400000-223-FF04EF4000]

Renewal of an Incidental Take Permit for Florida Key Deer and Other Protected Species on Big Pine Key and No Name Key, Monroe County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment and information.

SUMMARY: We, the Fish and Wildlife Service, announce receipt of an application from Monroe County (applicant) for a renewal of incidental take permit (ITP) under the Endangered Species Act. If granted, the expiration date of the existing ITP, which authorizes take of the Florida Key deer, the Lower Keys marsh rabbit, and the eastern indigo snake incidental to commercial and residential construction in Monroe County, Florida, would be extended for an additional 3 years. The applicant is seeking an extension of the ITP expiration date from June 30, 2023, to June 30, 2026. The application for renewal does not include a request to increase the amount of take authorized by the ITP or to modify the covered activities under the ITP and the associated habitat conservation plan (HCP). We request public comment on the application, which includes the applicant's existing HCP and the Service's preliminary determination that this ITP renewal qualifies as "low-effect," categorically excluded, under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

DATES: We must receive your written comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:* You may obtain copies of the documents online in Docket No. FWS-R4-ES-2022-0089 at <https://www.regulations.gov>.

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- Online: <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R4-ES-2022-0089.
- U.S. mail: Public Comments Processing, Attn: Docket No. FWS-R4-ES-2022-0089; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Brian Powell, by telephone at (772) 469-4315 or via email at brian_powell@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service (Service), announce receipt of an application from Monroe County (applicant) for renewal of incidental take permit (ITP) TE083411-0 under the Endangered Species Act by extending the permit expiration date by 3 years. The ITP authorizes take of the Florida Key deer (*Odocoileus virginianus clavium*), the Lower Keys marsh rabbit (*Sylvilagus palustris hefneri*), and the eastern indigo snake (*Drymarchon corais couperi*), via destruction of these species' feeding, breeding, and sheltering habitat incidental to commercial and residential construction (covered activity). The renewal of the ITP would not change the amount of covered area, the covered activity, or the amount or type of take or the species covered by the HCP and permit. The applicant's mitigation for the incidental take of the species also would not change.

The requested extension will allow the term of the ITP to match the County's Rate of Growth Ordinance (ROGO) timeframe (i.e., the timeframe for the County to issue building permits for new houses commensurate with the ability to safely evacuate the population in the event of a major storm). On January 22, 2020, the Monroe County Board of County Commissioners (BOCC) extended the timeframe for issuing the remaining building permits to match the ROGO for an additional 3 years, from 2023 to 2026, to provide the County additional time to distribute ROGO allocations while the new hurricane evacuation model is run. The extension also would allow the County to implement other strategies to help transition land into public ownership, reducing the potential for fifth amendment takings claims and addressing the overall future build-out of the Florida Keys.

We request public comment on the application, which includes the applicant's HCP and the Service's preliminary determination that renewal of the ITP qualifies as "low-effect," categorically excluded, under the National Environmental Policy Act (NEPA; 42 U.S.C. 4231 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

Project

The applicant requests only to extend the ITP expiration date for 3 years, from June 30, 2023, to June 30, 2026, and does not seek any other modifications, including but not limited to alterations of the FWS's original and analyses of the initial ITP application.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you

may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that extending the expiration date of the ITP by three additional years would individually and cumulatively have a minor or negligible effect on the covered species and the environment. Therefore, we have preliminarily concluded that renewal of the ITP would qualify for categorical exclusion and that this action is low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect action is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not over time result in significant cumulative effects to environmental values or resources.

Next Steps

The Service will evaluate the application and the comments received to determine whether to renew the ITP by extending the expiration date. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the requested renewal. After considering the above findings, we will determine whether the issuance criteria for ITP renewal in 50 CFR 13.22 have been met. If met, the Service will renew Monroe County, Florida's ITP number PER 0039939 by extending the expiration date by 3 years (from June 30, 2023, to June 30, 2026. The ITP number has been updated to reflect the Service's new permit tracking system (ePermits).

Authority

The Service provides this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et*

seq.) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

Robert L. Carey,

Division Manager, Environmental Review,

Florida Ecological Services Office.

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